

1
2
3
4
5
6
7
8
9
10
11
12

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**FRANCIS IRENE BENSON
350 Sharon Park Drive Unit M2
Menlo Park, CA 94025**

Registered Nurse License No. 654837

RESPONDENT

Case No. 2012-242

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FINDINGS OF FACT

1. On or about October 20, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-242 against Francis Irene Benson (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about March 21, 2005, the Board of Registered Nursing (Board) issued Registered Nurse License No. 654837 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on April 30, 2007 and has not been renewed.

3. On or about October 20, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-242, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

350 Sharon Park Drive Unit M2

Menlo Park, CA 94025.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On October 22, 2011, the certified mail was left at respondent's address of record
5 based on the track and confirm from U S Postal Service.

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
18 No. 2012-242.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated October 20, 2011, signed by Beth Scott, finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Accusation No. 2012-242 and the documents contained in Default Decision Investigatory
27 Evidence Packet in this matter which includes:
28

1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-242,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;

6 Exhibit 2: License History Certification for Francis Irene Benson, Registered Nurse
7 License No. 654837;

8 Exhibit 3: Copy of the disciplinary action taken by Texas Board of Nursing;

9 Exhibit 4: Affidavit of Kami Pratab;

10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2012-242

12 The Board finds that the charges and allegations in Accusation No. 2012-242 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$520.00 as of December 2, 2011.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Francis Irene Benson has
21 subjected her following license(s) to discipline:

22 a. Registered Nurse License No. 654837

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary
28 action by another State Board of Nursing.

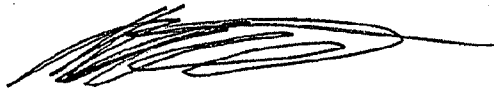
ORDER

IT IS SO ORDERED that Registered Nurse License No. 654837, heretofore issued to Respondent Francis Irene Benson, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 10, 2012.

It is so ORDERED July 13, 2012



JEANNINE K. GRAVES
President
Board of Registered Nursing
Department of Consumer Affairs

Attachment:

Exhibit A: Accusation No. 2012-242

Exhibit A

Accusation No. 2012-242

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-242

12 **FRANCIS IRENE BENSON**
13 **350 Sharon Park Drive, Unit M2**
Menlo Park, CA 94025
14 **Registered Nurse License No. 654837**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 21, 2005, the Board of Registered Nursing issued Registered
23 Nurse License Number 654837 to Francis Irene Benson (Respondent). The Registered Nurse
24 License expired on April 30, 2007, and has not been renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

“(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.”

~~COST RECOVERY~~

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct – Out of State Discipline)

5 (Bus. & Prof. Code § 2761, subd. (a)(4))

6 9. Respondent has subjected her registered nurse license to disciplinary action under
7 Code section 2761, subdivision (a)(4), in that on or about August 6, 2008, in a disciplinary action
8 before the Texas Board of Nursing (Texas Board), the Texas Board entered an Agreed Order
9 reprimanding Respondent with stipulations. The Agreed Order required Respondent to deliver
10 her wallet-sized license to the Texas Board within 10 days from the date of ratification of the
11 Agreed Order for appropriate notation and to successfully complete a course in Texas nursing
12 jurisprudence and ethics for a minimum of 6 contact hours within one year of entry of the Agreed
13 Order. Furthermore, if Respondent practiced as a registered nurse in the State of Texas, the
14 Agreed Order required that she provide direct patient care and practice in a hospital, nursing
15 home, or other clinical setting for a minimum of 64 hours-per-month for 2 years of employment
16 under the following conditions: (1) notify and provide a copy to of the Agreed Order to each
17 present and future employer in nursing; (2) cause each present and future employer in nursing to
18 submit the Notification of Employment form; (3) work under the supervision of a Registered
19 Nurse who is on the premises and who has a minimum of 2 years experience in the same or
20 similar practice setting; (4) work only regularly assigned, identified, and predetermined units;
21 (5) not be employed by a nurse registry, temporary nurse employment agency, hospice, or home
22 health agency; (6) not be self employed, contract for services, or have multiple employers; and
23 (7) cause each employer to submit periodic reports regarding Respondent's capability to practice
24 nursing. Respondent signed the Agreed Order on or about August 6, 2008.

25 10. The Texas Board's disciplinary action was based upon its findings of fact that from
26 on or about January 10, 2006, through February 27, 2006, while Respondent was employed with
27 AMN Healthcare in San Diego, California, and on assignment at M.D. Anderson Cancer Center
28 in Houston, Texas, Respondent provided falsified and fraudulent timesheets for payment of hours

1 that she did not actually work. There were at least 14 different dates during the above time period
2 for which Respondent provided falsified and fraudulent timesheets. The Texas Board concluded
3 that Respondent's conduct was deceiving and defrauded AMN HealthCare of over \$5,000 for
4 payment of hours that Respondent did not actually work.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
7 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nurse License Number 654837, issued to Francis
9 Irene Benson;

10 2. Ordering Francis Irene Benson to pay the Board of Registered Nursing the reasonable
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions
12 Code section 125.3;

13 3. Taking such other and further action as deemed necessary and proper.
14
15

16 DATED: October 20, 2011

17 Stacie Ben
for LOUISE R. BAILEY, M.ED., RN
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
State of California
Complainant

21 SF2011202186
22 90215597.doc
23
24
25
26
27
28